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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,181	12/08/2003	Troy Alan Brown	10734.4801	2910
22235	7590	09/09/2005		
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			EXAMINER GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/730,181	Applicant(s) BROWN ET AL.	
	Examiner Harry A. Grosso	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-17 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The disclosure is objected to because of the following informalities: in the specification reference numbers 24 and 26 are both used to refer to the L-shaped members while 24 is used on the drawings . In the specification reference numbers 42 and 48 are both used to refer to the divider plate while 42 is used in the drawings.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 8 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites a lining system comprising an outer section and an inner section, however, it appears from the specification and the dependent claims that the lining system comprises the inner section only. It is unclear what the applicant is claiming in claim 1.

5. Claim 8 recites the limitation "the circumference bottom plate" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 11 recites the limitation "tank divider plate" beginning in the first line. There is insufficient antecedent basis for this limitation in the claim. Claims 12-14 depend from claim 11.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-9, 15-17 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bachmann (5,269,436).

9. Regarding claims 1 and 2, Bachmann discloses the lining system with an outer section (21', 21", Figure 9, column 10, lines 40-61), an inner section (23), interstitial space (19) with a vertical volume area and a horizontal volume area and a negative pressure (vacuum) in the interstitial area (column 8, lines 14-21) .

10. Regarding claim 3, Bachmann discloses the lining system of claim 1 with an L-shaped member having a vertical end and a horizontal end, which is connected to the floor surface (25, Figure 9, column 7, lines 60-67).

11. Regarding claim 4, Bachmann discloses the lining system of claim 1 with bottom plates (25, 27, Figure 9) overlaying the original flooring.

12. Regarding claim 5, Bachmann discloses the lining system of claim 3 with the vertical portion of layer 27 constituting the shell skirt attached to the vertical end of the L-shaped member.

13. regarding claim 6, Bachmann discloses the lining system of claim 3 and the horizontal portion of layers 27, 29, 30 constitute bottom plates attached to the horizontal end of the L-shaped member.

14. Regarding claim 7, Bachmann discloses the lining system of claim 5 and the top section of the shell skirt is attached to the vertical outer section at a predetermined height that could be chosen to avoid a critical stress area (10', Figure 9).

15. Regarding claim 8, Bachmann discloses the lining system of claim 6 and the shell skirt and bottom plates are attached to the L-shaped members (column 7 lines 19-21 and 28-30).

16. Regarding claim 9, Bachmann discloses the lining system of claim 1 and the ridges on the bottom of member 25 constitute the divider plates.

17. Regarding claim 11, Bachmann discloses the lining system of claim 3 and the bottom ridge at the joint between the outer wall (21") and the floor (21') has a rolled up end and the divider plate is attached to the outer section.

18. Regarding claim 13, Bachmann discloses the lining system of claim 11 and the inner section includes bottom plates (27, 29) sealingly attached to the divider plate through member 25 (column 7, lines 19-25).

19. Regarding claim 14, Bachmann discloses the lining system of claim 13 and a portion of the interstitial space is formed by the bottom plate and a plurality of L-shaped members, which includes the divider plates, being placed in the outer section (column 7, lines 60-65).

20. Regarding claim 15, Bachmann discloses the lining system of claim 3 with a sensor (24) in sensing communication with the interstitial space (column 8, lines 19-21).

21. Regarding claims 16 and 17, Bachmann discloses the lining system of claim 3 and that member 27 is made of epoxy and the upper surface of member 27 would constitute a buffer lining.

22. Regarding claim 22, Bachmann discloses the lining system with an outer section (21', 21"), an inner section (23) having a shell skirt attached to an L-shaped member as discussed in paragraph 12 above, a plurality of bottom plates attached to the L-shaped member as discussed in paragraph 13 above and a vacuum in the interstitial space (column 8, lines 14-21). The examiner considers the phrase "formed from cost-saving template" to be a product by process limitation that does not materially affect structure.

23. Regarding claim 23, Bachmann discloses the lining system divider plates, the ridges on the bottom of member 25 that are capable of dividing the tank into two or more sealed sections.

24. Regarding claim 24, Bachmann discloses the lining system with a means for forming an inner (23) and an outer layer (21', 21"), means for forming a negative pressure between the inner and outer layers (column 8, lines 14-21) and means for dividing the system into two or more independently sealed sections, the ridges on member 25.

25. Regarding claim 24, Bachmann discloses the lining system of claim 24 with a means for flushing an area below a sealed section (17, column 7, lines 11-15).

Allowable Subject Matter

26. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

27. Claims 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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